

House File 161 - Introduced

HOUSE FILE 161
BY COMMITTEE ON HEALTH AND
HUMAN SERVICES

(SUCCESSOR TO HF 102)

A BILL FOR

1 An Act relating to noneconomic damage awards against
2 health care providers, and including effective date and
3 applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.136A, subsection 1, paragraph b,
2 Code 2023, is amended to read as follows:

3 b. (1) *“Noneconomic damages”* means damages arising from
4 pain, suffering, inconvenience, physical impairment, mental
5 anguish, emotional pain and suffering, loss of chance, loss of
6 consortium, or any other nonpecuniary damages.

7 (2) *“Noneconomic damages”* does not include the loss of
8 dependent care, including the loss of child care, due to the
9 death of or severe injury to a spouse or parent who is the
10 primary caregiver of a child under the age of eighteen or a
11 disabled adult. Such damages shall be considered economic
12 damages.

13 Sec. 2. Section 147.136A, subsection 2, Code 2023, is
14 amended to read as follows:

15 2. The Subject to subsection 4, the total amount recoverable
16 in any civil action for noneconomic damages for personal injury
17 or death, whether in tort, contract, or otherwise, against a
18 health care provider shall be limited to two hundred fifty
19 thousand dollars for any occurrence resulting in injury or
20 death of a patient regardless of the number of plaintiffs,
21 derivative claims, theories of liability, or defendants in
22 the civil action, shall not exceed two hundred fifty thousand
23 dollars unless the jury determines that there is a substantial
24 or permanent loss or impairment of a bodily function,
25 substantial disfigurement, loss of pregnancy, or death, which
26 warrants a finding that imposition of such a limitation would
27 deprive the plaintiff of just compensation for the injuries
28 sustained, in which case the amount recoverable shall not
29 exceed one million dollars.

30 Sec. 3. Section 147.136A, Code 2023, is amended by adding
31 the following new subsection:

32 NEW SUBSECTION. 4. The limitations on damages contained
33 in subsection 2 shall increase by two and one-tenth percent
34 on January 1, 2028, and each January 1 thereafter. In any
35 civil action described in this section, such limitations on

1 damages shall be the amount effective at the time of the
2 occurrence. The commissioner of insurance shall publish the
3 amount of the limitations on damages contained in this section
4 on the insurance division's internet site and shall update the
5 published amount annually.

6 Sec. 4. EFFECTIVE DATE. This Act, being deemed of immediate
7 importance, takes effect upon enactment.

8 Sec. 5. APPLICABILITY. This Act applies to causes of action
9 accrued on or after the effective date of this Act.

10 EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill relates to noneconomic damage awards against
14 health care providers. The bill provides that damages for loss
15 of dependent care due to death of or severe injury to a spouse
16 or parent who is the primary caregiver are considered economic
17 damages.

18 The bill limits the amount of noneconomic damages that
19 a jury can award a plaintiff if there is a substantial or
20 permanent loss or impairment of a bodily function, substantial
21 disfigurement, loss of pregnancy, or death to \$1 million. The
22 bill does not amend the current exception to the cap for cases
23 in which the defendant's actions constitute actual malice.

24 The bill provides for a 2.1 percent increase in the \$250,000
25 cap under current law and \$1 million cap under the bill
26 beginning on January 1, 2028, and each January 1 thereafter.
27 The commissioner of insurance is required to publish and update
28 the amount of the limitations on damages on the insurance
29 division's internet site annually.

30 The bill takes effect upon enactment and applies to causes of
31 action accrued on or after that date.